

PTO/SB/21 (09-04)

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/877,729
	Filing Date	6/8/00, 2 6/9/01
	First Named Inventor	FRANZ A. Wakefield
	Art Unit	2174
	Examiner Name	Boris Pesin
Total Number of Pages in This Submission	Attorney Docket Number	033174

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ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment <u>Reply</u> <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Interview Summary & Response to Interview Summaries mailed 5/2/05
Remarks Response to Interview Summaries. 37CFR: § 1433 (b) " " § 1.2		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	COOLTVNETWORK.COM, INC.		
Signature	FRANZ A. Wakefield		
Printed name	"		
Date	May 4, 2005	Reg. No.	N/A PRO SE

CERTIFICATE OF TRANSMISSION/MAILING	
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.	
Signature	VIA fax: 5/4/05 U.S. MAIL: 5/5/05
Typed or printed name	FRANZ A. Wakefield Date 5.04.05

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In The United States Patent and Trademark Office

Appn. Serial Number: 09/877,729

Appn. Filed: 2001 Jun. 8

Prov. Filed: 2000 Jun. 8

Prov. Serial Number: 60/210,300

Applicant: **Franz A. Wakefield**



Title: **Method And System For Creating, Using And Modifying
Multifunctional Website Hotspots**

Examiner/GAU: **Boris Pesin/Pinchus Laufer/Brian L. Johnson/Paul Sewell**

P'TO Supervisor: **Kristine Kincaid**

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MAY 04 2005

Miami, 2005 May 02 Monday

INTERVIEW SUMMARY

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir & Madame:

In response to telephonic discussions with Examining Core 2100, and the Interview

Summaries received by The Applicant on 2005 May 04, please see the Telephonic Phone
discussions below:

Appn. Number 09/877,729 (Wakefield) GAU 2174 Telephonic Discussion 2 of 9

TECHNOLOGY CENTER 2100 COMMUNICATIONS

- Dates:
1. On 10/6/04: duration ~ 2 hours--Boris Pesin, Examiner.
 2. On or about 10/13/04: duration ~ 40 minutes, **1 conversation**
Pinchus Laufer.
 3. April 25, 2005: duration ~ 10 minutes---Boris Pesin, Examiner
 4. April 26, 2005: duration ~ 30 minutes---Brian L. Johnson
 5. On or about April 27, 2005 ~ 20 minutes---Paul Sewell

Types: Telephonic

Exhibit Shown: 1/7/05 Affidavit and accompanying
evidence, walk-through and discussed with
Paul Sewell.

Definite Claims discussed: N/A

Identification of prior art discussed: The effective date of Horowitz.

Agreement with respect to the claims: N/A

SUBSTANCE OF COMMUNICATIONS

I.

Substance of Telephonic Communication on 10/06/04, with Examiner:

I Applicant, and The Examiner, discussed what would be necessary (content and form requirements, and objections to) for an acceptable Affidavit pursuant to 37 CFR § 1.131 to place the patent application in an allowable condition. The Examiner could not answer

the questions as to what would suffice "greater weight" of evidence under 37 CFR § 1.131 (for example; whether 105 pages of "Hard Evidence" would be sufficient as opposed to 290 pages), but a discussion did occur about particular evidence that The Examiner wanted to comment on as Applicant explained the DEPTH of possible evidence and the obstacles that stood ahead of Applicant, before A REPLY to The Final Rejection could be submitted. The Examiner in an email dated 10/13/04 referred I Applicant to Pinchus Laufer, as stated below.

- **Excerpt from email communication: 10/13/04 at 2:20 PM**

"For any questions regarding the format of the affidavit please contact Pinchus Laufer at (703) 306-4160. He is a specialist in affidavit practice and can further assist you in the prosecution of your case."

We discussed the following topics and points in our communication:

1. Conception of Invention.
2. Conception of Invention & Reduction to Practice being Simultaneous.
3. The effective date of reference to validate the invention prior to the prior art.
4. Diligence and how much evidence would be needed to prove Diligence.
5. The claims of the invention being valid in different software languages.
6. Actual and Constructive Reduction to Practice of the invention.
7. The fact that the invention is being utilized for commerce, i.e. through profit corporations, trademarks, trade secrets, domain names, business plans/methodologies, and marketing/sales plans.

II.**The Substance of the Telephonic Communication with Pinchus Laufer on or about 10/13/04:**

I Applicant and Pinchus Laufer, Special Program Examiner & Affidavit Specialist, discussed what should be included in The Affidavit which would be **A REPLY** to The Final Rejection and the form that The Affidavit should take so that it would be in compliance with 37 CFR § 1.131. Mr. Laufer directed that the claims should be placed in The Affidavit or reference to included, that the relevant cases should be included which could act as persuasion to the points being proven, and that the specific references, and their page numbers, from the exhibits should be placed in the body of The Affidavit.

Mr. Laufer communicated to I Applicant, that "I can't give you legal advise," at which time I reassured Mr. Laufer that I was not asking for his legal opinion. He also suggested that I Applicant called him back in three days, but I Applicant found that there was no need for further discussion regarding the form and content requirements and objections to the like for **THE REPLY** to the Final Rejection. **APPLICANT WILL NOTE:**

that there were other email communications ("calls") to Mr. Laufer in his absence from The USPTO, two (2), on 4/23/05 regarding The Advisory Action, of which there was no reply. Mr. Laufer has also included my inquiries in these emails, the 2004 Affidavit discussion, and the substance (a general summary) of a telephonic communication with Mr. Paul Sewell, all in his 5/2/05 Interview Summary record.

III.**The Substance of the Telephonic Communication with Boris Pesin, The Examiner on April 25, 2005:**

I Applicant and The Examiner, Mr. Boris Pesin, discussed an email communication that was sent to The Examiner. The email is quoted below:

- **Email communication April 25, 2005 10:36 A.M. Eastern**

“ Dear Mr. Pesin,

I have received your email regarding the reason for the advisory action. You state the rule 1.116(c) as the reason for the advisory action and not a notice of allowance: But the advisory action states at the top of the page: ‘THE REPLY FILED 1/07/2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.’ This statement makes the conclusion that you did review the affidavit and evidence but it still was insufficient to place the application in condition for allowance. As such can you please give me the reason(s) why the Affidavit did not place the application in a condition for allowance? I need your reasoning so that I can have an appropriate reply in a petition under [37 CFR §] 1.137, if I decide to pursue this further. I spoke to an older examiner in Invention Assistance (Mr. Joe Narcavage), who stated that just a reason of [37 CFR §] 1.116(c) is insufficient reason in an advisory action to use to say that the Affidavit and the evidence that accompany and form part of the Affidavit, was not sufficient for placing the application in an allowable condition.”

NOTE: I, Applicant also talked to two individuals in The Petitions Office in numerous phone conversations on or about April 22, 2005 (Mrs. Mary Ann Jenkins and Mrs. Shielma Grant) who reiterated that technically the patent was abandoned, that technically I would have to petition and that I should find out WHY the 1/7/05 Affidavit and evidence was not sufficient to place the application in an allowable condition. I was specifically told by Mrs. Grant to ask the examiner for his reasoning why the 1/7/05 Affidavit did not place the Application in an allowable condition, because I would need to include a response to this reasoning and deficiency in any petition hereafter.

The Examiner re-iterated 37 CFR § 1.116 (e) as his reasoning and advised Applicant again to talk to Pinchus Laufer. The Examiner stated that he was told to respond in the advisory action using that particular regulation (§ 1.116 (e)), and that I should talk to Pinchus Laufer regarding the reasoning behind the selection of that rule (Mrs. Kincaid also requested that I Applicant speak to Mr. Laufer about why the advisory action was generated). Applicant suggested that Mr. Pesin should argue relevant statutes and regulations that support the entering of the Affidavit because in the end it is his name on the patent application. Applicant also at the end of the phone conversation suggested that The examiner review 37 CFR § 1.116 (b) (1), at which point The Examiner agreed to review the 1.116 (b) (1) regulation.

- **37 CFR § 1.116 (b) STATES:**

“ An amendment may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action;”

IV. The substance of a Telephonic communication with Brian L. Johnson, Special Program Examiner on April 26, 2005.

I Applicant and Mr. Brian L. Johnson, Special Program Examiner discussed the Advisory Action mailed on 4/21/05. We attempted to find reasoning why the advisory action was issued. Mr. Johnson AGREED that the advisory action should have stated more of a reason than just 37 CFR § 1.116 (e); at which point in the discussion, after Applicant conveyed that the 1/7/05 Affidavit was timely filed and IN RESPONSE to The Final Action, Mr. Johnson referred to MPEP 715.09 Seasonable Presentation. Mr. Johnson inquired if I had met this 715.09 requirement; where I responded that I utilize the statutes (U.S.C.), regulations (CFR), and patent guides (MPEP—'office guidelines') in order of importance as listed, and yes I did meet this MPEP guideline. Specifically 715.09 (c) (1), which states:

"Affidavits or declarations under 37 CFR 1.131 must be timely presented in order to be admitted. Affidavits and declarations submitted under 37 CFR 1.131 and other evidence traversing rejections are considered timely if submitted:

.
.
.

(C) after final rejection and submitted

(1) with a first reply after final rejection for the purpose of overcoming a new ground of rejection or requirement made in the final rejection, or..."

We also discussed 37 CFR 1.116 (b) (1) and (e). Mr. Johnson also made mention of MPEP 502.03 as to how email communications can be apart of the record, at which time I Applicant communicated that Mrs. Kincaid did not advise me of this rule. **NOTE: APPLICANT COMMUNICATED THE APPROPRIATE LANGUAGE TO THE FIRST EXAMINER JORDAN GOLINKOFF SO THAT EMAILS COULD BE INCLUDED IN THE RECORD, AND IT WAS NEVER WITHDRAWN.** I, Applicant was advised that technically the patent application was abandoned based on statutory time limits, at which time I, Applicant stated that I was contemplating filing a complaint with The United States Department of Justice, and that if there was an error in the issuing of the advisory action that it should and could be rescind based on The Examiner's error and The AGREEMENT MADE (4/19/04---Telephonic Interview) WITH KRISTINE KINCAID, SPE 2100.

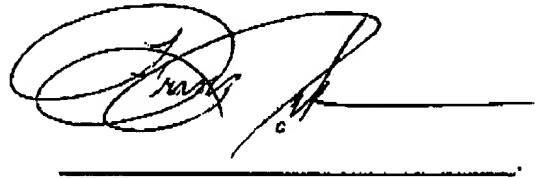
V.

The substance of a Telephonic communication with Paul Sewell, SPE on or about April 26, 2005:

I Applicant and Mr. Sewell discussed and walked-through the 1/7/05 Affidavit in a telephone conversation. This discussion was directly related to the advisory action mailed on 4/21/05. Applicant communicated that the advisory action was deficient and corroborated the discussion on this topic with the statements from the individuals in The Petitions Department of The USPTO. We proceeded to walk-through the 1/07/05 Affidavit, where Applicant drew the attention of Mr. Sewell to the first statement in the Affidavit: **"This Affidavit is responsive to a Detailed Action (Final Action) filed on 10/06/2004; is made pursuant to CFR 1.131."** Applicant communicated to Mr. Sewell that ALL of the direction from the examining core was adhered to in response to the final

rejection, including relevant cases that would act as persuasion and not controlling in the prosecution of this patent application. I, Applicant also communicated the undue burden that was being experienced because of the lack of proper examination and documentation. Mr. Sewell suggested that I file a petition to the director under 37 CFR § 1.181, at which time I communicated that my right to file under 37 CFR 1.137 (A) or (B) should not be eliminated by coercion. There was no agreement reached between Mr. Sewell and I; but I duly communicated that I would continue my complaint with Mr. Peter Wong, Mr. Stewart Levy, (Technology Center 2100 Directors) and The FBI.

Respectfully Submitted,



Mr. Franz A. Wakefield, Pro Se Applicant & Inventor
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